

FOI 0267/2022 Response

Re (1):

The reference by BSMHFT to the 'Trac system' and is not relevant to the disclosure of information requested. The information requested has not been provided. BSMHFT hold the information requested. The 'Trac system' (NHS) does not hold the information requested.

In the FOI Response 17.01.2022 BSMHFT has implicitly stated that foreign nationals apply for employment as Trainee Clinical Psychologists via the 'Trac system' via which BSMHFT alleged that 'honorary checks' take place. However, there is no information available - and BSMHFT has not to date provided any information - to show that foreign nationals submit job applications (for post of Trainee Clinical Psychologists) to/via the 'Trac system' in order for foreign nationals to be subjected to so-called 'honorary checks'. Persons who submit applications for jobs via the 'Trac system' are job applicants not 'students'.

- The Trust has responded to your FOI request (FOI 0252/2021) that was received on the 17th December 2021, where you had asked questions around the dates of when the honorary contract was originally created. The Trust provided you with a response to those questions. At no point in the response sent on the 17th January 2022 or in any other response has the Trust implicitly stated that foreign nationals apply for employment as Trainee Clinical Psychologists via the 'Trac system'.
- Please note that the Trac system is not explicitly a recruitment/ job application system, it is also a recruitment management system that is used to carry out human resources (HR) compliance checks. In addition to this, note that all individuals on an honorary contract will be captured in the Trac system to ensure HR elements have been fulfilled.
- The Trust has not stated that foreign nationals apply for employment as Trainee Clinical Psychologists via the 'Trac system'. For further details on the arrangements around Trainee Clinical Psychologists, including those of foreign nationality please refer to the previous FOI responses released to you. Also please refer to the second bullet point above regarding the use of the Trac system.
- FOI 0252/2021 queried "On what date was the original generic document first created by BSMHFT". The Trust had stated that this specific version of the agreement (the honorary contract that was disclosed to you) has been in use since the Trust moved honorary checks onto the Trac system in circa 2018/2019. The Trust can only therefore confirm that the original honorary contract disclosed to you, was created in circa 2018/2019.
- As the Trac system is used to carry out HR compliance checks, it has therefore been interrogated to help determine when the disclosed honorary contract was originally created and first issued.

BSMHFT has not provided any information/documents or policy documents (issued in a previous FOI Response) or otherwise to show that foreign nationals and/or UK and/or EU nationals submit job applications to/via the NHS 'Trac system' in order to work as Trainee Clinical Psychologists within BSMHFT. Full disclosure of this 'Trac system' job application process for prospective NHS Trainee Clinical Psychologists has not been provided; disclosure is required.

- Please note that the previous FOI requests (FOI 0187/2021 and FOI 0203/2021) regarding policies, where not in relation to foreign nationals and/or UK and/or EU nationals submitting job applications to/via the NHS 'Trac system' in order to work as Trainee Clinical Psychologists within BSMHFT. Rather, they were in relation to recruitment, employment, and equal opportunities policies. FOI 0187/2021 and FOI 0203/2021 was answered in full. For further details around the requested policies please refer to FOI 0187/2021 and FOI 0203/2021.
- Please note that the Trac system is not explicitly a recruitment/ job application system, it is also a recruitment management system that is used to carry out human resources (HR) compliance checks. In addition to this, note that all individuals on an honorary contract will be captured in the Trac system to ensure HR elements have been fulfilled.
- The Trust has not stated that foreign nationals apply for employment as Trainee Clinical Psychologists via the 'Trac system'. For further details on the arrangements around Trainee Clinical Psychologists, including those of foreign nationality please refer to the previous FOI responses released to you. Also please refer to the second bullet point above regarding the use of the Trac system.

Further, BSMHFT has to date not provided any information to show that UK/EU nationals (as opposed to foreign nationals) submit job applications (for jobs/posts of NHS Trainee Clinical Psychologists) to/via the 'Trac system' in order for UK/EU nationals to be subjected to employment checks.

- The Trust has not received any request specifically in relation to UK/EU nationals (as opposed to foreign nationals) submitting job applications (for jobs/posts of NHS Trainee Clinical Psychologists) to/via the 'Trac system' in order for UK/EU nationals to be subjected to employment checks.
- Please note that the Trac system is not explicitly a recruitment/ job application system, it is also a recruitment management system that is used to carry out human resources (HR) compliance checks. In addition to this, note that all individuals on an honorary contract will be captured in the Trac system to ensure HR elements have been fulfilled.
- The Trust has not stated that foreign nationals apply for employment as Trainee Clinical Psychologists via the 'Trac system'. For further details on the arrangements around Trainee Clinical Psychologists, including those of foreign nationality please refer to the previous FOI responses released to you. Also please refer to the second bullet point above regarding the use of the Trac system.

- Previous FOI requests received and completed were in relation to UK/EU nationals and foreign nationals where regarding:
 - Full true dated copies of the generic contracts of employment issued to Trainee Clinical Psychologists.
 - Copies of contracts of issued to non-salaried foreign workers who are charged c.£75,000 per person to work in BSMHFT (for three years) as trainee clinical psychologists, i.e., non-salaried foreign nationals who work alongside salaried NHS employees. The foreign workers have to pay money to work in BSMHFT.

All persons who submit applications via the NHS 'Trac system' are job applicants; they are not 'students' attending 'placements'. Genuine students attending 'placements' within NHS Trusts do not submit job applications to/via the NHS 'Trac system'. Trainee Clinical Psychologists are NHS employees employed to do a full-time job of work within BSMHFT; NHS Trainee Clinical Psychologists are not 'students' attending 'placements' nor 'one placement' at BSMHFT.

Full disclosure is in the Overriding Public Interest and is required.

- The Trust has not stated that Trainee Clinical Psychologists submit a job application via the 'Trac system'.
- Please note that the Trac system is not explicitly a recruitment/ job application system, it is also a recruitment management system that is used to carry out human resources (HR) compliance checks. In addition to this, note that all individuals on an honorary contract will be captured in the Trac system to ensure all HR elements have been fulfilled.
- The Trust has not stated that foreign nationals apply for employment as Trainee Clinical Psychologists via the 'Trac system'. For further details on the arrangements around Trainee Clinical Psychologists, including those of foreign nationality please refer to the previous FOI responses released to you. Also please refer to the previous bullet point above regarding the use of the Trac system.

Re (2):

The reference by BSMHFT to the 'Trac system' and is not relevant to the disclosure of information requested. The information requested has not been provided. BSMHFT hold the information requested. The 'Trac system' (NHS) does not hold the information requested.

Full disclosure is in the Overriding Public Interest and is required.

- The Trust has responded to your FOI request (FOI 0252/2021) that was received on the 17th December 2021, where you had asked questions around the dates of when the honorary contract was originally created. The Trust is of firm opinion that the response provided still stands true and accurate.

Re (3):

The FOI Response referring to foreign nationals (working in clinical psychology within BSMHFT) as 'studying for a Psychology Degree' and to BSMHFT as being 'one of their placements' is false information false statement.

In responses to (1) and (2) BSMHFT has stated (albeit erroneously) that the information about 'honorary contracts' requested in (1) and (2) cannot be provided because of the use of the 'Trac system'. The 'Trac system' is the NHS recruitment platform for processing job applications submitted by job applicants. In response to (3) BSMHFT has stated that the 'honorary contracts' are (allegedly) issued to alleged 'students'. Therefore, if the 'honorary contracts' have been issued to recipients via the 'Trac system' for job applicants, then the recipients cannot be 'students'.

The 'Trac System' (for NHS Jobs) website states (<https://apps.trac.jobs/>):

'Trac powers the recruitment for a large proportion of the UK's public sector workforce. Create an account to apply for jobs and track the progress of your applications including employment checks, appointments and more.'

- The Trust has not stated that the disclosed honorary contract is issued via the TRAC system.
- Please note that the Trac system is not explicitly a recruitment/ job application system, it is also a recruitment management system that is used to carry out human resources (HR) compliance checks. In addition to this, note that all individuals on an honorary contract will be captured in the Trac system to ensure HR elements have been fulfilled.
- As the Trac system is used to carry out HR compliance checks, it has therefore been interrogated to help determine when the disclosed honorary contract was originally created and first issued.

BSMHFT cannot and does not possess the employee title of 'students'; BSMHFT is not an education institution; BSMHFT has employees who work in the NHS. Individuals working in clinical psychology within BSMHFT are BSMHFT employees as explicitly stated by BSMHFT in writing published on the BSMHFT website (dated since 2018). This, fact is further proven by the fact that BSMHFT issues NHS contracts of employment to UK/EU nationals working in clinical psychology within BSMHFT - who work alongside foreign nationals undertaking the exact same role/jobs in clinical psychology; none of whom are 'students' and none of whom physically attend an education institution.

- Please note that the Trac system is not explicitly a recruitment/ job application system, it is also a recruitment management system that is used to carry out human resources (HR) compliance checks. In addition to this, note that all individuals on an honorary contract will be captured in the Trac system to ensure HR elements have been fulfilled.
- For details around the Trainee clinical psychologist arrangements for UK and Foreign nationals and associated honorary contracts please refer to disclosed FOI responses.

BSMHFT has failed to provide information setting out that (allegedly, according to the BSMHFT FOI Response 17.01.2022) foreign nationals apply for jobs with BSMHFT in clinical psychology via the 'Trac system', but the foreign nationals (having according to BSMHFT submitted job applications) then end up being issued (by BSMHFT) with the so-called 'honorary contracts' which according to BSMHFT render persons (foreign nationals working full-time in BSMHFT) alleged 'honorary students of the Trust' (alleged 'honorary students' of BSMHFT).

- The Trust has not stated that foreign nationals apply for employment as Trainee Clinical Psychologists via the 'Trac system'. Nor has the Trust stated that they are 'honorary students of the Trust'. For further details on the arrangements around Trainee Clinical Psychologists, including those of foreign nationality please refer to all of the disclosed FOI responses.

Neither the foreign nationals nor UK/EU nationals are on 'placements' as Trainee Clinical Psychologists within BSMHFT; and the work undertaken by the Trainee Clinical Psychologists is not 'one of the placements' on a 'Psychology degree'. Trainee Clinical Psychologists work full-time within BSMHFT doing a job of work. BSMHFT has failed to issue contracts of employment to foreign nationals working as Trainee Clinical Psychologists; but BSMHFT has issued contracts of employment to UK/EU nationals working as Trainee Clinical Psychologists (as proven by previous FOI Response and as proven by notice published by BSMHFT informing BSMHFT employees that Trainee Clinical Psychologists are NHS employees employed to do a job of work). The information provided by BSMHFT regarding the work and contracting of foreign nationals as Trainee Clinical Psychologists is false information/false statement.

- Trainee clinical psychologists who are admitted on to the HEE commissioned NHS funded training places are in receipt of a Contract of Employment.
- Foreign national individuals who self-fund their training as they are not eligible for an NHS commissioned training place do not have a Contract of Employment with the Trust.
- Foreign national individuals who self-fund their training as they are not eligible for an NHS commissioned training place would be in receipt of an Honorary Contract (also known as an Honorary Agreement in some Trusts within BSol) only if they were undertaking a fixed term training clinical placement with the Trust.
- This therefore means that we do not provide all foreign national individuals (who self-fund their training as they are not eligible for an NHS commissioned training place) with an Honorary Contract. Only those who are completing a clinical placement with us as part of the 3-year Training Programme.
- With the above in mind, the Trust has disclosed the correct honorary contract that would be issued to Foreign national individuals on the Clinical Trainee Psychology Doctorate course.

The UK/EU nationals who undertake the exact same tasks/jobs concurrently with and alongside foreign nationals are proven to be NHS employees employed by BSMHFT; employed by BSMHFT on full-time NHS contracts of pensionable employment requiring the Trainee Clinical Psychologists to work for 37.5 hours/week (plus overtime up to 48 hours/week; more than 48 hours/week if opted out of the Working Time Directive). The UK/EU nationals working in clinical psychology are contracted for three years (in the first instance) and BSMHFT requires/contracts the employees (Trainee Clinical Psychologists) to undertake any work in any area of BSMHFT as deemed by BSMHFT; thus, not only work within clinical psychology; and the nature and place of the work undertaken by Trainee Clinical Psychologists is stated/contracted by BSMHFT to be subject to change/reassignment by BSMHFT at any time during the three-year contract of employment.

In 2017/2018 Her Majesty's Revenue and Customs (HMRC lawyers on behalf of HMRC Commissioners) conducted a review of the legal status of new workers employed in clinical psychology (Trainee Clinical Psychologists) within all NHS Trusts (including BSMHFT) and (after examining contracts of employment and practices and after consulting with NHS Trusts employing NHS staff as Trainee Clinical Psychologists) the HMRC Commissioner issued notices to NHS Trusts reiterating that the legal status of NHS Trainee Clinical Psychologists is that of NHS employees employed to do a job of work as per any other NHS employees (not 'students' and not in 'training' placements). HMRC issued notices to BSMHFT; and in turn BSMHFT published those notices on the BSMHFT website informing BSMHFT employees that the legal status of NHS Trainee Clinical Psychologists is that of NHS employees employed to do a job of work and engaged on NHS pensionable contracts of employment (as per any other category of NHS employees). That prescribed legal status (legal notice by HMRC) for the employees/workers applies to all persons working in clinical psychology within BSMHFT as Trainee Clinical Psychologists, which includes UK/EU Nationals and foreign nationals. However, BSMHFT has failed to provide foreign nationals with contracts/honorary contracts of employment; despite issuing contracts of employment to the UK/EU nationals doing the same job of work. In contrast, other NHS Trusts using foreign nationals as Trainee Clinical Psychologists have issued honorary contracts of employment.

Therefore, the information issued by BSMHFT regarding the status of foreign nationals (BSMHFT alleging foreign nationals to be 'honorary students' of the Trust; and alleging temporary 'placement') is false information false statements; and, therefore, in breach of the FOI Act 2000.

Full disclosure of the information requested is in the Overriding Public Interest for disclosure as the information requested pertains to use of foreign nationals as non-contracted workers within BSMHFT (NHS) for a full-time period of 3 years for at least 37.5 hours/week as explicitly set out in NHS contracts of employment issued by BSMHFT-to-BSMHFT employees employed as Trainee Clinical Psychologists.

- The Trust has not alleged that foreign national individuals on the Trainee Clinical Psychologists are honorary students.
- Trainee clinical psychologists who are admitted on to the HEE commissioned NHS funded training places are in receipt of a Contract of Employment.
- Foreign national individuals who self-fund their training as they are not eligible for an NHS commissioned training place do not have a Contract of Employment with the Trust.

- Foreign national individuals who self-fund their training as they are not eligible for an NHS commissioned training place would be in receipt of an Honorary Contract (also known as an Honorary Agreement in some Trusts within BSol) only if they were undertaking a fixed term training clinical placement with the Trust
- This therefore means that we do not provide all foreign national individuals (who self-fund their training as they are not eligible for an NHS commissioned training place) with an Honorary Contract. Only those who are completing a clinical placement with us as part of the 3-year Training Programme
- With the above in mind, the Trust has disclosed the correct honorary contract that would be issued to Foreign national individuals on the Clinical Trainee Psychology Doctorate course.

The Trust has answered all questions and now considers this request closed.